IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.9365 of 2006

Dated: September 24, 2007

Between:

Kommina Nageswara Rao, S/o. Subba Rao,
Age: 45 years, Occ: Poultry Farm, R/o.Nayampalli
Village, Pedavegi Mandal, West Godavari District,
And others.

… Petitioners

And

Eastern Power Distribution of A.P. Ltd.,
Rep. by its Assistant Divisional Engineer,
Operation, Rural, Eluru, West Godavari District,
And others.

… Respondents

Order:

I have heard learned counsel for the petitioner and Mr. V. Ajay Kumar, learned Standing Counsel appearing on behalf of the respondents.

2. Petitioners question the notices dated 18-02-2006, 27-02-2006 and 17-02-2006, issued by the first respondent, Assistant Divisional

Engineer, Operation, A.P. Eastern Power Distribution Co. Ltd., Eluru. Petitioners are consumers of electric power, vide service connections bearing Nos.478/Cat-III, 1264/Cat-III, 499/Cat-III, 500/Cat-III and 500/Cat-III respectively, from the respondent-company. Their service connections were inspected on 04-02-2006 and 17-02-2006, by the Assistant Divisional Engineer/DPE-II/Eluru and during inspection it was found that petitioners indulged in pilferage of power. The value of energy pilfered by them was estimated at Rs.10,988/-, Rs.7,447/-, Rs.23,280/-, Rs.17,775/- and Rs.2,000 /- respectively. They were directed to pay half of the said amounts plus Rs.50/- towards supervision charges.

3. Though no counter affidavit has been filed, learned Standing Counsel appearing for the respondents submits that final assessment proceedings are still pending before the first respondent.

4. The case of petitioners is that allegations leveled against them are false and fabricated. However, the same is a matter, which has to gone into by the competent authority as contemplated under Section 153 of the Electricity Act, 2003 ('the Act' for brevity). If petitioners are of the view that they have not resorted to any pilferage of power, it is for them to prove the same in the enquiry to be conducted by the competent authority. However, the same cannot be gone into by this court, at this stage. As much as it is stated that final assessment proceedings are pending before the first respondent, I dispose of the writ petition directing the first respondent, Divisional Engineer Operation, Eluru, to pass final orders within a period of three months from the date of receipt of this order. I further direct the respondents to restore power supply to the petitioners on condition of their depositing one-fourth of the provisionally assessed amount, against each of their

service connections, apart from reconnection charges and other charges as per the terms and conditions. It is clarified that payment of the said amount by the petitioners will be subject to final orders to be passed by the first respondent.

5. The writ petition is accordingly disposed of. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

September 24, 2007
MRR